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December 16, 2004

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92

Dear Ms. Dortch:

On behalf of Verizon, I am requesting that the attached documents regarding the appropriate intercarrier compensation for Virtual NXX traffic be filed in the record of the above dockets. Please let me know if you have any questions.

Sincerely,

Donna Epps

c: Tamara Preiss
Steve Morris

VIRTUAL NXX TRAFFIC IS OVERWHELMINGLY ISP-BOUND TRAFFIC AND IS NOT SUBJECT TO RECIPROCAL COMPENSATION OR THE *ISP REMAND ORDER* COMPENSATION REGIME

1. In a typical Virtual NXX arrangement, a CLEC establishes a single switch in a LATA and its ISP customers collocate in the same building where the CLEC's switch is housed. The CLEC then obtains telephone numbers (*i.e.*, NXX codes) for calling areas throughout the LATA. The CLEC then assigns one or more numbers from each of those NXX codes to its ISP customer. The ISP offers its customers — normally, an incumbent's end-user customers — "local" numbers for dial-up access to the Internet. Thus, a Verizon customer in Sarasota, for example, can dial a seven-digit number to call an ISP located in Tampa, even though a call from Sarasota to Tampa is a toll call. The basics of Virtual NXX are depicted in the following diagram.

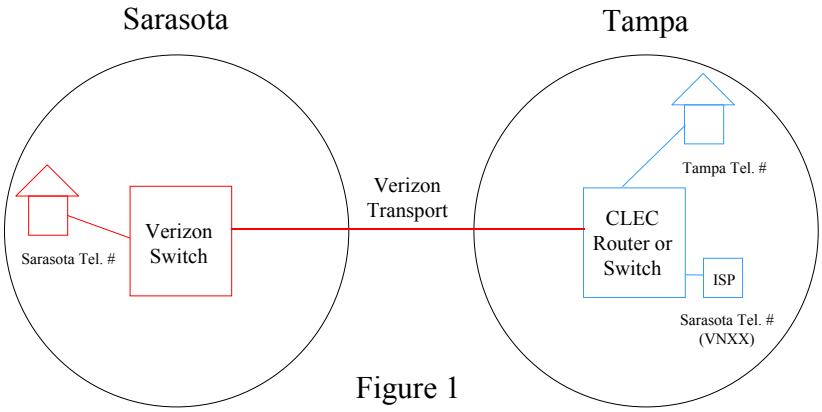

Figure 1

There is no dispute that, on a normal call from a Verizon customer in Sarasota to a customer located in Tampa — from the red house on the left to the blue house on the right — Verizon would receive either toll charges from its Sarasota customer or originating access charges if that customer subscribed to an intraLATA toll provider and, moreover, would not pay reciprocal compensation to the CLEC. That is because, as noted above, a call from Sarasota to Tampa is an interexchange call.

In the case of the Virtual NXX arrangement depicted above (the ISP in Tampa assigned a Sarasota number), however, Verizon's customer dials a number that appears to be local and Verizon does not (and in some states cannot) receive toll charges from its customer or access charges (from Verizon's customer's selected intraLATA toll provider). In contrast to Verizon, which thus does the work of transporting the call to Tampa without compensation, the CLEC receives compensation without doing work. The CLEC hands off the calls a very short distance to its ISP customer — which is often collocated in the same building housing the CLEC's router or switch — and charges its customer for both the facilities at issue and the number assignment. Moreover, even though the CLEC is being paid by its customer so that Verizon's customer can make calls without paying Verizon, the CLEC refuses to share any of the revenue it receives, as it would if the CLEC provided its customer with a functionally equivalent to 1-800 arrangement. Instead, because the call appears to be local, the CLEC claims that Verizon must pay reciprocal compensation or ISP intercarrier compensation.

Thus, the key feature of a Virtual NXX arrangement — and the reason it appeals to CLECs — is that incumbents bear virtually all the costs and the CLEC collects all the revenue, particularly the claimed right to receive intercarrier compensation. Figure 1, however, gives a misleading indication of the scope of Virtual NXX arrangements. Because the CLEC and the ISP shift to incumbents all the costs of a Virtual NXX arrangement, they have made extensive use of these arrangements. Indeed, the cost savings to ISPs and the arbitrage opportunities for CLECs are so great that CLECs utilize Virtual NXX arrangements even when they must provide a moderate amount of transport, such as when they provide an ISP located in one LATA with numbers associated with one or more neighboring LATAs or states. A more accurate depiction of the manner in which Virtual NXX is employed would show all of the other local calling areas

from which Verizon's customers can make a toll-free call to the CLECs' ISP located in Tampa. Thus, the ability to make toll-free toll calls to Tampa would exist not only for Verizon's customers in Sarasota, but also for all of Verizon's customers in the Tampa LATA.

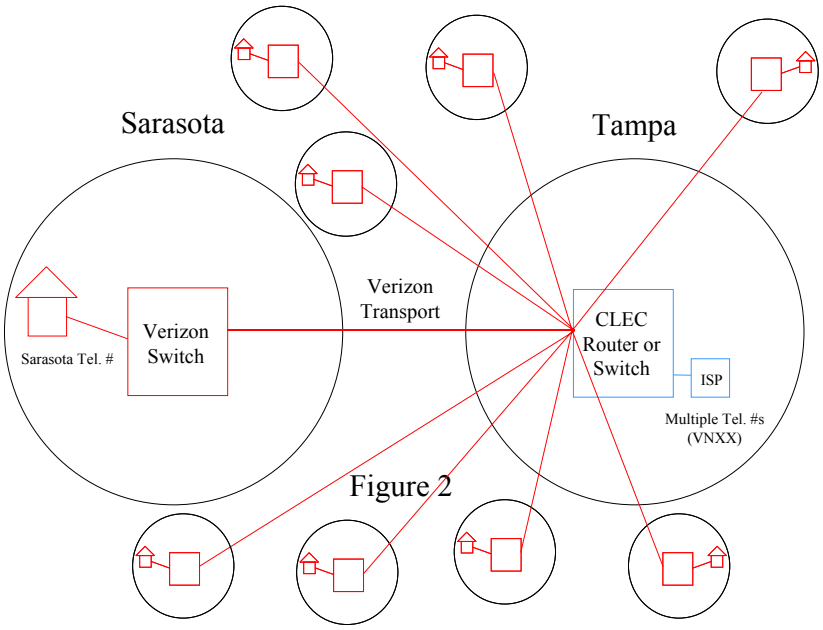

Figure 2

As this diagram shows, Verizon customers served by Verizon switches in each of the depicted local calling areas can place a "local" call to an ISP in Tampa. That is because the CLEC normally gives its ISP not one Virtual NXX number, but many, if not dozens of, such numbers (but only a tiny fraction of the numbers from each of the 1,000 or 10,000 blocks of numbers the CLEC must obtain to provide this Virtual NXX service). The ISP, in turn, advertises those "local" numbers to its customers located in each of these local calling areas. The ISP's customers thus obtain the same toll-free calling ability as if the ISP purchased a regional 1-800 service, but without the ISP or the CLEC bearing the costs of that service — or Verizon obtaining the revenue that would be due for its part in carrying 1-800 calls.

Nor is this arrangement utilized exclusively, or even predominantly, in rural areas, as some CLECs have claimed.[1] On the contrary, the vast majority of Virtual NXX traffic is generated by incumbents' customers in urban and suburban areas. Indeed, because a Virtual NXX number in an urban or suburban area reaches more of an ISP's customers — and therefore generates more minutes of use for which the CLEC will seek compensation from the incumbent — CLECs and ISPs have every incentive to maximize their use of Virtual NXX in densely populated urban and suburban areas. And that is exactly what they have done. For example, in Verizon's territory, CLECs are using Virtual NXX throughout southern New Jersey and the suburbs surrounding Boston.[2] And Level 3 uses Virtual NXX throughout the Pittsburgh metropolitan area, among other places.[3] Thus, requiring the originating carrier to pay reciprocal (or intercarrier) compensation for Virtual NXX, as the CLECs urge, would largely subsidize urban and suburban customers' use of dial-up Internet service (and the ISPs and CLECs offering that service), and would do so at the expense of promoting adoption of broadband.

Moreover, not only would such a subsidy be implicit, but also it would impose substantial harm on rural incumbents. CLECs typically do not interconnect directly with rural incumbents, forcing these carriers to incur substantial costs in carrying these "local" calls to the neighboring incumbent's tandem switch. It would thus be wholly irrational to require payment of reciprocal compensation for non-local Virtual NXX traffic on the basis that rural customers benefit from this unlawful implicit subsidy. Indeed, whatever minimal benefit would accrue to rural users of

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[1] *See*, *e.g.*, Letter from John T. Nakahata to Marlene H. Dortch, CC Docket Nos. 99-68, 01-92, at 1-3 (Nov. 23, 2004) ("Level 3 Ex Parte").

[2] *See* Order, DTE 02-45, at 27-30 (Mass. DTE Dec. 12, 2002); Testimony of Richard Murphy, OAL Docket No. PUC 8336-01, BPU Docket No. TC991110838, at 320-28 (N.J. OAL Apr. 20, 2004).

[3] *See Level 3 Communications, LLC v. Marianna & Scenery Hill Tel. Co.*, Case 20028114 (Pa. PUC Jan. 7, 2003).

dial-up Internet access from exacting this subsidy from rural incumbents, is more than offset by the harm to rural incumbents and their customers, and pales in comparison to the weight of the equally indefensible subsidy to urban and suburban customers and the ISPs and CLECs serving them.[4]

In contrast to Virtual NXX arrangements used for ISP-bound traffic, which can account for as much as 100 percent of a CLEC's traffic and tens of millions of dollars billed to ILECs, the traditional FX service that ILECs offer normally accounts for fewer than 1 percent of calls received by an ILEC. A typical traditional FX arrangement is depicted in the following diagram.

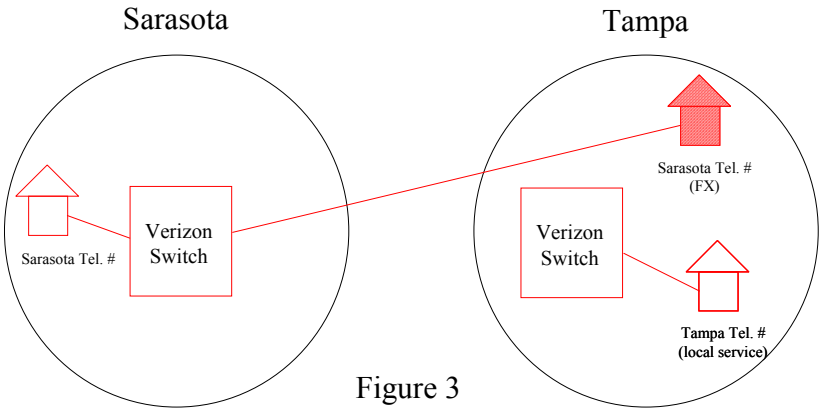

Figure 3

As shown here, unlike typical local customers, which are connected to and receive dial tone from a switch located in their local calling area, the Verizon FX customer (the shaded house) is connected to and receives dial tone from a switch in a distant (or foreign) exchange.[5] The FX customer pays Verizon a flat-rated toll charge for the private line used to connect the customer to

[4] Level 3's data, moreover, suggest that half of rural customers are already obtaining dial-up ISP service from "local providers." Level 3 Ex Parte at 1. If those ISPs are, in fact, local to these rural callers, then those ISPs do not need to use Virtual NXX to provide Internet access. Moreover, local, rural ISPs — which deploy facilities and employ people in rural areas — would be harmed by any rule making it easier for national ISPs to compete in rural areas using Virtual NXX (which requires no facilities and creates no jobs in rural areas).

[5] The Verizon FX customer likely has a second line, not depicted here, for basic local service in Tampa and obtains dial tone on that line from the Verizon switch in Tampa.

the foreign switch. The Verizon FX customer, therefore, can place and receive "toll-free" calls as though he were located in Sarasota, but that is only because the FX customer has pre-paid Verizon a flat-rated toll charge for the private line in place of the toll charges that normally would apply to both for outbound and inbound calls.

Because the FX customer bears the cost of this private line — and because obtaining an FX arrangement that covered multiple calling areas would require the purchase of multiple private lines — traditional FX does not allow for the shifting of costs to another carrier. This is shown in the following diagram.[6]

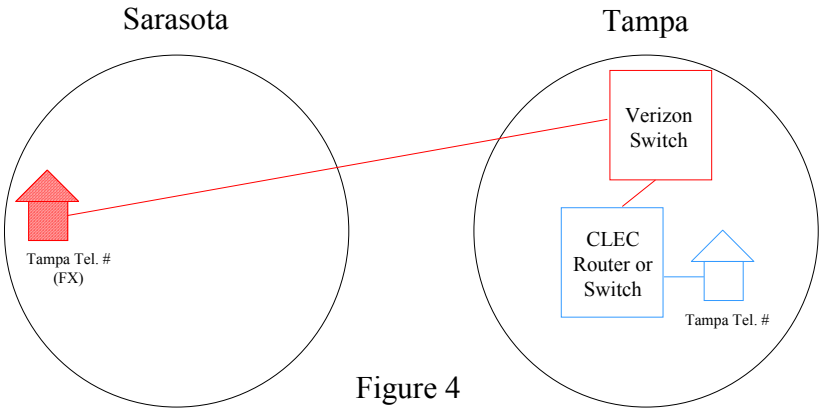

Figure 4

Thus, when the CLEC customer in Tampa places a "local" call to the Verizon FX customer, it is still Verizon and its customer that, respectively, perform and bear the cost of the interexchange transport associated with the FX service. For this reason, customers do not use traditional FX service as a replacement for 1-800 service. Therefore, while Figure 2, above, depicts the manner in which Virtual NXX is most commonly utilized, there is no comparable, real-world picture for traditional FX — that is, end users do not obtain FX lines that connect to every (or even many) of the local calling areas in a LATA, let alone to multiple calling areas in neighboring LATAs or

[6] The diagram below shows a Verizon FX customer located in Sarasota receiving a call from a CLEC customer located in Tampa, but the inability to shift costs to another carrier exists even when a Verizon FX customer in Tampa receives a call from a CLEC customer located in Sarasota, as shown in Figure 4a in the Attachment to this white paper.

states. The result is that any misbilled reciprocal compensation for calls by CLEC customers to Verizon FX customers amounts to no more than a few thousand dollars a year for any given CLEC. Despite this, Verizon has repeatedly offered to work with CLECs to conduct studies or to develop factors to correct the billing on these few calls — if the CLEC was willing to do the same for its Virtual NXX traffic. No CLEC, however, has ever taken Verizon up on that offer. That offer still stands.

Finally, while traditional FX has thus far presented no material arbitrage opportunities, the very real arbitrage opportunity that the use of Virtual NXX to serve ISPs creates has been magnified by the Commission's decision, in the *Core Forbearance Order*, to eliminate the growth cap and the new market rules. If these arrangements were now made subject to the intercarrier compensation regime established in the *ISP Remand Order*, CLECs now could deploy new Virtual NXX arrangements at minimal cost to increase significantly the minutes of ISP-bound traffic for which they seek compensation from incumbents. In addition, because the primary arbitrage opportunity that Virtual NXX presents is the opportunity to seek reciprocal (or ISP intercarrier) compensation, that arbitrage opportunity would not be materially reduced by any decision to require CLECs to bear the cost of transporting calls from the originating local calling area to their switch, such as by paying UNE transport rates.

2. More than 30 state commissions have already addressed the issue of Virtual NXX traffic under the Commission's current reciprocal compensation rules. There is no reason, therefore, for this Commission to address the appropriate rule for Virtual NXX traffic on a going-forward basis outside of its comprehensive intercarrier compensation rulemaking. To the extent the Commission does address this issue, it should limit itself to confirming that neither its reciprocal compensation rules nor the existing *ISP Remand Order* compensation regime applies

to interexchange calls, but only to calls to CLEC customers (whether an ISP or otherwise) located in the same local calling area as the calling party.

With respect to the *ISP Remand Order*, the D.C. Circuit had no difficulty recognizing that the Commission held that "calls made to [ISPs] *located within the caller's local calling area*" are not subject to section 251(b)(5), but that, instead, compensation for such calls is subject to the "interim provisions devised by the Commission."[7] The D.C. Circuit's understanding is not surprising, because the question before the Commission has always been whether calls to an ISP in the same local calling area as the calling party are to be treated the same as calls to a local business. Indeed, the CLECs' long-standing argument that a call to an ISP is just like a call to a pizza parlor would be nonsensical if they were referring to a pizza parlor located across the state from the calling party, rather than to one physically located in the same local calling area as the calling party. Thus, in the *ISP Declaratory Ruling* (¶¶ 12-15), the Commission rejected CLECs' arguments that a call to an ISP "terminate[s] at the ISP's *local* server" and "ends at the ISP's *local* premises." And, in the *ISP Remand Order* (¶¶ 10, 13), the Commission recognized that it was addressing the compensation due for "the delivery of calls from one LEC's end-user customer to an ISP in the *same local calling area* that is served by a competing LEC."

Although CLECs have argued that the Commission meant for the *ISP Remand Order* compensation regime to apply to *all* calls to ISPs, that cannot be squared with the context in which the *ISP Remand Order* was issued or with sound policy. As shown above, the question addressed in the *ISP Declaratory Ruling* and the *ISP Remand Order* was limited to calls to ISPs located in the same local calling area as the calling party, because it was state commission

[7] *WorldCom, Inc. v. FCC*, 288 F.3d 429, 430 (D.C. Cir. 2002) (emphasis added).

decisions requiring payment of reciprocal compensation for those calls that led to the regulatory arbitrage that the Commission sought to prevent. And the effect of accepting the CLECs' view that the *ISP Remand Order* compensation regime applies to all calls to ISPs — whether Virtual NXX, 1-800, or 1+ dialed — would be to create *new* arbitrage opportunities, by requiring incumbents to *pay* compensation on interexchange, long-distance calls, for which they had previously *received* compensation under established rules. The Commission should confirm that, as the D.C. Circuit recognized, the *ISP Remand Order* compensation regime did not upset those established compensation rules. To the extent the Commission were to seek to change those rules, it should do so only as part of its comprehensive intercarrier compensation proceeding.

ATTACHMENT

Figure 4a, below, depicts a call from a CLEC customer located in Sarasota, but served from the CLEC's switch in Tampa, to a Verizon FX customer located in Tampa that is served from the Verizon switch in Sarasota.

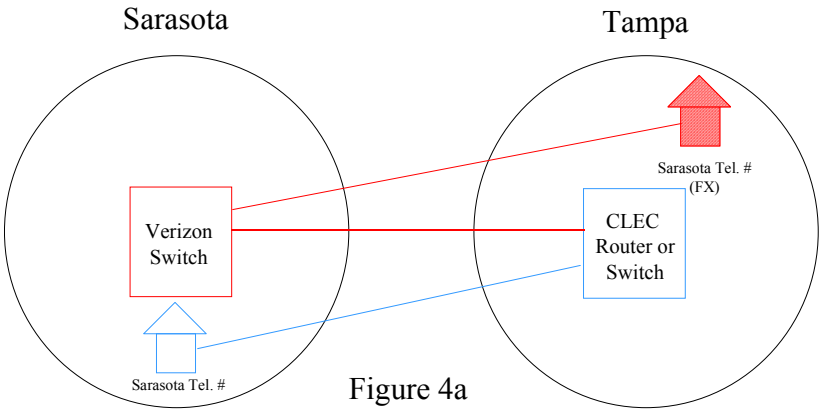

Figure 4a

As this diagram demonstrates, even in this scenario — where the CLEC, by virtue of its decision to serve a customer using a loop that crosses local calling area boundaries, performs some interexchange transport — Verizon and its customer, respectively, continue to perform and bear the cost of the interexchange transport associated with the FX service. Indeed, in this instance, the CLEC and Verizon are compensated for the interexchange transport that each performs — Verizon by its customer, the CLEC by its customer. This calling scenario, however, is not a common one, not only because there are very few Verizon FX customers to receive such calls, but also because CLECs more frequently serve customers located in the same local calling area as their switch.

VNXX – Qs&As

Q. Aren't the CLEC VNXX and ILEC FX services for all practical purposes the same service?

A. No. From a service perspective:

* ILEC FX service is a two-way service that provides dial tone from a single foreign exchange. FX customers can place calls and receive calls that are first switched by a switch in that foreign exchange, not by the switch in their local exchange.

* CLEC VNXX service is typically used in connection with ISP-bound traffic that is overwhelmingly one-way (inbound) and the CLEC VNXX customer typically receives dial tone from a switch located in the same building as the customer — and, in all cases, from the same CLEC switch that would be used to provide regular, local service to that customer.

From an end-user customer cost perspective:

* ILEC FX customers must pay the ILEC a flat-rated toll charge for the private line that connects their premises to an ILEC switch located in a distant local calling area. If ILEC FX customers want service in multiple foreign exchanges, they must purchase multiple FX arrangements, each one connecting to a different ILEC switch.

* CLEC VNXX customers pay for their connection to the CLEC switch, but this is normally a very short connection to the same switch used to provide local service. If a VNXX customer wants to expand the scope of its VNXX arrangement, the CLEC simply assigns additional numbers to the single switch to which the customer is already connected. Even though such number assignment entails no additional cost for the CLEC, CLECs frequently charge customers for VNXX service anyway.

From an intercarrier cost perspective:

* Because an ILEC FX customer's number is resident in the switch located in the rate center associated with the number, there is no question of shifting costs of transport to the CLEC. The ILEC is responsible for the interexchange transport necessary to deliver the call from that switch to the customer in another local calling area and is paid for that transport by its customer.

* By contrast, the CLEC VNXX arrangement does not involve use of a private line for the interexchange transport, because the CLEC creates the VNXX arrangement simply by assigning the customer a telephone number associated with a distant rate center. Accordingly, when an ILEC customer makes a call to a CLEC VNXX customer with a number associated with the ILEC's customer's rate center, the ILEC is required to perform the interexchange transport necessary to deliver the call to the POI near the CLEC switch. The CLEC then transports that call an extremely short

distance, most often to an ISP located in the same building as the CLEC switch. The ILEC is not compensated by the CLEC or its customer for that transport and the CLEC demands that the ILEC pay reciprocal compensation, on top of any additional revenue the CLEC receives from its VNXX customer.

Not surprisingly, while FX calls have always been de minimis — since few customers will purchase private line service — VNXX arrangements are typically used in connection with ISP-bound calls and have rapidly expanded to be as much as 100% of the traffic delivered to a CLEC

Q. Shouldn't the CLEC be able to offer local calling in a foreign exchange the same way the ILEC can?

A. Yes. But neither VNXX nor FX calls are subject to reciprocal compensation or to intercarrier compensation under the *ISP Remand Order*, because all such calls are interexchange calls.

Q. Aren't you advocating that CLEC local calling areas coincide or mirror Verizon's?

A. No. In fact, because VNXX is a one-way, *inbound* service, CLECs are not using VNXX to define *their* calling areas — they are using it to expand range of the "local" calls that *ILECs'* customers can make. CLECs' number assignment for their customers cannot alter the geographic retail calling areas for ILECs' customers. In any event, CLECs are free to define their *retail* calling areas — for their customers' outbound calls — in any way they choose.

Q. Aren't you advocating that CLECs deploy or adopt the ILEC network architecture?

A. No. What we are advocating is that ILECs are not required to pay CLECs reciprocal compensation or ISP intercarrier compensation for these interexchange calls, on top of the compensation that CLECs already receive from their VNXX customers.

Q. How would your proposal affect rural Internet users?

A. The primary beneficiaries of Virtual NXX are urban and suburban customers using dial-up service and the ISPs that serve them (and the CLECs that serve those ISPs). Virtual NXX is not utilized exclusively, or even predominantly, in rural areas, and the vast majority of Virtual NXX traffic is generated by incumbents' customers in urban and suburban areas. To take a few examples in Verizon's territory, CLECs are serving southern New Jersey, the Boston suburbs, and the Pittsburgh metropolitan area using Virtual NXX. In addition, data suggests that more than half of rural customers obtain dial-up ISP service from "local providers," which if local do not use Virtual NXX.[1] Accordingly, ruling that incumbents do not have to pay CLECs for Virtual NXX calls

[1] *See* Letter from John T. Nakahata to Marlene H. Dortch, CC Docket Nos. 99-68, 01-92, at 1 (Nov. 23, 2004).

(whether to ISPs or otherwise) and that incumbents are entitled to compensation for the interexchange transport they perform in carrying these calls would have limited impact on rural Internet users. In contrast, the CLECs' proposal would impose substantial harm on rural incumbents and, by extension, on rural voice customers. CLECs typically do not interconnect directly with rural incumbents, forcing these carriers to incur substantial costs in carrying "local" Virtual NXX calls to the neighboring incumbent.

Q. Is it practical to identify and exclude VNXX traffic from carriers' reciprocal compensation or ISP intercarrier compensation bills (as opposed to real local traffic)?

A. Yes. And multiple state commissions — including Florida, Massachusetts, South Carolina, and California — have recognized as much. There are at least two potential ways to do this:

* The CLEC can keep track of its VNXX numbers and then use that information to correct its bills.

* The CLEC and ILEC can work together to develop a billing factor to account for the percentage of VNXX traffic — this is the same method that some wireless companies use to identify calls that appear to be intra-MTA (based on cell phone number), but that really are inter-MTA (because of the location of the cellular customer). Such traffic studies can provide a close approximation for the amount of VNXX (and FX) traffic exchanged between two carriers. As the Commission has recognized in 271 orders, billing systems are not (and are not expected to be) perfect.

Verizon has repeatedly offered to take the same steps to ensure proper billing of calls by CLEC customers to Verizon's FX customers. That offer still stands today. But it is important to recognize that while as much as 100% of traffic delivered to a single CLEC may be VNXX — resulting in bills for tens of millions of dollars — *all* CLEC calls to Verizon FX customers in a state are generally well under 1% of the traffic received and account for a few thousand dollars. Unsurprisingly, therefore, no CLEC has ever taken Verizon up on this offer.

Q. Once VNXX traffic is excluded from carriers' reciprocal compensation or ISP intercarrier compensation bills, what intercarrier compensation rules apply to that traffic?

A. There is no reason for the Commission to address the appropriate intercarrier compensation rule for Virtual NXX traffic on a going-forward basis outside of its comprehensive intercarrier compensation rulemaking. More than 30 state commissions have already addressed the issue of Virtual NXX traffic under the Commission's current reciprocal compensation rules.

To the extent the Commission does address this issue, it should limit itself to confirming that ILECs are not obligated to pay CLECs for VNXX calls under either its existing reciprocal compensation rules or the existing *ISP Remand Order* compensation regime. That is, the Commission should confirm that its existing rules do not apply to

interexchange calls, but only to calls to CLEC customers (whether an ISP or otherwise) located in the same local calling area as the ILEC customer placing the call. Notably, with respect to the *ISP Remand Order*, the D.C. Circuit had no difficulty recognizing that the Commission held in the *ISP Remand Order* that "calls made to [ISPs] *located within the caller's local calling area*" are not subject to section 251(b)(5), but that, instead, compensation for such calls is subject to the "interim provisions devised by the Commission."[2] Indeed, the question before the Commission has always been whether calls to an ISP in the same local calling area as the calling party are to be treated the same as calls to a local business. *See ISP Declaratory Ruling* ¶¶ 12-15; *ISP Remand Order* ¶¶ 10, 13. (The CLECs' long-standing argument that an ISP is just like a pizza parlor would be nonsensical if they were referring to a pizza parlor located across the state from the calling party.)

Q. But isn't it true that you don't incur any additional costs on an actual local call by a Verizon customer to a CLEC customer as compared to a VNXX call?

A. This is true where a CLEC establishes a single point of interconnection in a LATA. But it is also true in that situation of intraLATA toll calls where a CLEC does not employ VNXX. There is no dispute that for such calls Verizon (a) is entitled to receive toll charges from its customer or access charges from the intraLATA toll provider for such calls and (b) is not obligated to pay the CLEC either reciprocal compensation or intercarrier compensation under the *ISP Remand Order*. CLECs should not be able to bring such intraLATA toll calls into the scope of the Commission's existing reciprocal compensation and ISP intercarrier compensation rules through the simple artifice of changing the dialing pattern for a call that indisputably does not terminate in the same local calling area where it originates. Indeed, regardless of whether one agrees — as the Commission has held — that ISP-bound calls do not terminate at the ISP's server, a VNXX call to an ISP plainly terminates in a different local calling area from the one in which it originates.

In addition, for bona fide local calls — that is, in those (rare) instances where a CLEC deploys a loop that crosses local calling area boundaries to serve a customer located a substantial distance from its switch — it is the CLEC and its customer that bears the cost of that loop. As a result, even though incumbents are forced to subsidize the CLECs' business decision to some extent (by performing interexchange transport to reach the CLEC's POI), there are far fewer opportunities for arbitrage than those presented by VNXX, where the CLEC may perform little or no transport at all. Indeed, VNXX is a significant arbitrage opportunity because it permits CLECs to give ISPs a "local" presence throughout a LATA — and to pull in an enormous amount of one-way traffic — without bearing the cost of the interexchange transport and, instead, forcing incumbents to bear that cost.

[2] *WorldCom, Inc. v. FCC*, 288 F.3d 429, 430 (D.C. Cir. 2002) (emphasis added).

Q. Would Verizon's concerns about VNXX be eliminated by a rule requiring CLECs to deploy multiple POIs or to assume financial responsibility for all calls at a point in the same local calling area where calls originate?

A. No. The concerns would not be eliminated, although the arbitrage opportunities presented by VNXX would be mitigated to a minimal degree.

VNXX is a toll substitution service, as it turns an intraLATA toll call — on which the calling party normally bears the toll charges — into a toll-free call (that is, the toll charges are paid by the called party so that the calling party does not have to pay those charges). CLECs are (or certainly can be) compensated by their customers for providing this toll substitution service. In every toll and toll substitution service, the carrier that receives the toll charges compensates the carrier that does not. Thus, even if the Commission's rules required multiple POIs or the assumption of financial responsibility at a point in the local calling area where a call originates, if CLECs also could charge reciprocal (or ISP intercarrier) compensation for VNXX calls, that would offset (in large part or in whole) any amounts they were required to pay the ILEC for performing interexchange transport. VNXX thus would still invert the normal compensation rules, permitting a CLEC (which is, or can be, receiving the toll charges) also to obtain revenue from another carrier, thereby creating opportunities for arbitrage. In sum, the primary arbitrage opportunity that VNXX presents is the opportunity to seek reciprocal (or ISP intercarrier) compensation. The transport arbitrage opportunity is decidedly secondary.

Q. How is your proposed treatment of VNXX consistent with your position on VoIP?

A. There is no inconsistency. For both services, Verizon's position is that retail billing should be based on telephone number comparisons. To the extent that VoIP enables end-user customers to obtain non-geographically relevant telephone numbers (much like wireless customers can), it thus provides certain *retail* billing advantages (namely, the ability to receive calls without the calling party incurring the toll charges that normally would apply).

And, for both services, Verizon's position is that intercarrier compensation is controlled by the end points of a call. This is also the case for numerous other services, including wireless, interLATA FX, and Feature Group A. Nonetheless, where telephone number comparisons provide a reasonably accurate proxy for the end points of a call — which is the case for calls Verizon receives (as calls to traditional FX customers make up an extremely small percentage of the total call volume), but not the case for CLECs using VNXX for ISP-bound traffic — carriers may reasonably decide to sacrifice some degree of accuracy for the convenience provided by calculating intercarrier compensation by comparing telephone numbers.

With respect to VoIP, there are reasons today for treating telephone numbers as an adequate proxy for the end points of a call. First, as the Commission has recognized, the VoIP provider may not have location information about its customer, making the telephone number the best available information even if it may be inaccurate in some

cases. In contrast, CLECs that serve ISPs using Virtual NXX know precisely where their customer is located. After all, those customers are connected to the CLEC's switch by facilities provided or obtained by the CLEC. Second, because the Commission is currently developing rules for intercarrier compensation in the context of VoIP calls, it is reasonable to delay investing in the development of more precise methods of intercarrier compensation — whether using actual customer location information or billing factors — until those rules have been promulgated. In contrast, the intercarrier compensation rules for circuit-switched, interexchange calls are well established.